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Security Council Committee established pursuant to resolution 1737 (2006)

Note verbale dated 11 November 2010 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the secretariat of the Security Council Committee established pursuant to resolution 1737 (2006), and has the honour to send, in attachment to this note verbale, Portugal's report on the implementation of Security Council resolution 1929 (2010) (see annex).

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Annex to the note verbale dated 11 November 2010 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

Report on the implementation of Security Council resolution 1929 (2010) by Portugal

In accordance with paragraph 31 of Security Council resolution 1929 (2010), Portugal has the honour to inform the Security Council Committee established pursuant to resolution 1737 (2006) of the measures adopted at the national level with a view to implementing the sanctions imposed on the Islamic Republic of Iran.

The Portuguese Government was involved in the internal negotiations of the European Union aimed at adopting a Common Position to be endorsed by the Council of the European Union and the subsequent drafting of a Council Regulation transposing resolution 1929 (2010) into European Union law. In this regard, Portugal and the other States members of the European Union have jointly implemented the restrictive measures against Iran imposed by Security Council resolution 1929 (2010) by taking the following common measures:[1]

Council Decision 2010/413/CFSP of 26 July 2010.[2] The Council Decision sets out the European Union's commitment to implementation of all the measures contained in resolution 1929 (2010), and provides the basis for European Union-specific accompanying measures within the scope of the resolution, notably:

- An export ban on certain other items, in addition to those determined by the sanctions Committee, which could contribute to Iran's nuclear-related programme or other weapons of mass destruction-related programmes
- Autonomous designations under the visa ban and the assets freeze, to be decided by the Council of the European Union, of persons and entities involved in proliferation-sensitive nuclear activities or in violation of Security Council resolutions, of individuals and entities of the Islamic Revolutionary Guard Corps and of the Islamic Republic of Iran Shipping Lines and their subsidiaries
- Enhanced vigilance over the activities of financial institutions within the jurisdiction of European Union member States, including banks and financial entities linked to Iran, notably through a prior authorization regime for all transactions above a certain amount
- Prohibition to open new branches and subsidiaries of Iranian banks in the European Union and establish new banking relationships with Iranian banks
- Prohibition to provide insurance and reinsurance to Iranian entities
- Prohibition of the sale, purchase and brokering of government bonds
- Measures in the transport sector concerning the prohibition for Iranian cargo flights to have access to European Union airports and the prohibition to provide engineering and maintenance services to Iranian cargo flights

[1] All common measures are published in the *Official Journal of the European Union*, which can be consulted through the following web pages: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/RECH_menu.do?ihmlang=en (search form).

[2] *Official Journal of the European Union* L 195, 27 July 2010, p. 39.

Council implementing Regulation (EU) No. 668/2010 of 26 July 2010 implementing article 7(2) of Council Regulation (EC) No. 423/2007 on restrictive measures against Iran.[3] In addition to the Council Decision, the Council adopted a Regulation implementing article 7(2) of Council Regulation (EC) No. 423/2007 on restrictive measures against Iran in order to legally enforce the asset freeze for the European Union's new autonomous designations of persons and entities.

Council Regulation amending Council Regulation (EC) No. 423/2007 on restrictive measures against Iran. The Council will adopt in the near future a Council Regulation amending Council Regulation (EC) No. 423/2007 in order to implement the measures provided for in Council Decision 2010/413/CFSP of 26 July 2010 which fall under the competence of the Union.

Commission Regulation (EU) No. 532/2010 of 18 June 2010[4] amends Council Regulation (EC) No. 423/2007 by including the persons and entities designated by the Security Council on 9 June 2010 in the list of persons, entities and bodies subject to the assets freeze as set out in annex IV to Council Regulation (EC) No. 423/2007.

Council Regulation (EC) No. 539/2001 of 15 March 2001[5] *(and its subsequent amendments).* This Regulation requires nationals of Iran to be in possession of a visa when entering the European Union.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all States members of the European Union.[6]

At the national level, the Portuguese Government, committed to the full implementation of resolution 1929 (2010), undertook inter-agency coordination procedures and circulated the resolution, along with its respective instructions for implementation, to all governmental departments involved in its comprehensive national application, as well as to other entities deemed relevant, such as the banking system. The competent authorities in the field of restrictive measures are the Ministry for Foreign Affairs and the Ministry of Finance.[7]

Portugal has the following national legislation which, together with Council Decision 2010/413/CFSP, provides the basis for the implementation and enforcement of restrictive measures:

Law 11/2002 of 16 February 2002 sets out the Portuguese legal framework on penalties applicable to the infringement of sanctions imposed by the Security Council resolutions or European Union Regulations. According to this Law, whoever breaches the sanctions imposed by the United Nations or the European Union will be sentenced to 3 to 5 years in prison.

To cope with commercial obligations such as the ones emerging from resolution 1929 (2010), Portugal has set forth legislative measures that implement, at the national level, the guidelines and the item lists of several export control regimes, such as the Missile Technology Control Regime and the Wassenaar Arrangement.

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[3] Ibid., p. 25.

[4] *Official Journal of the European Union* L 154, 19 June 2010, p. 5.

[5] Ibid., L 81, 21 March 2001, p. 1.

[6] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom of Great Britain and Northern Ireland.

[7] See www.mne.gov.pt/mne/pt/AutMedidasRestritivas.htm.

Specifically regarding requests for import, export or transit licences of those goods, technologies and services whose control rests with the Portuguese Ministry of Defence, the following legislation is relevant:

- *Law 49/2009, 5 August 2009*: establishes the rules and procedures that govern the access to the activities related to the industry and commerce of defence-related products, including brokering.
- *Decree-Law 1/86, 2 January 1986*: the Minister of Defence must authorize the transfer of technology or the sale of patents, models, designs and technical assistance as well as the participation of experts in foreign education and training programmes.
- *Decree-Law 436/91, 8 November 1991*: definition of rules for the control of imports and exports of goods that may affect the national strategic interests.
- *Decree ("Portaria") 439/94, 29 June 1994*: list of goods and technologies that may affect the national strategic interests, subject to prior licensing and certification.

In case of infringement, sanctions are imposed as follows:

- *Decree-Law 1/86, 2 January 1986*: the Minister of Defence may revoke an export licence due to the higher National Defence interests.
- *Decree-Law 436/91, 8 November 1991*: all those who are responsible for false statements or omit mandatory information from the international export or import certificates will be sentenced to up to two years in prison; all those who export, temporarily export or re-export goods and technologies that may affect the national strategic interests without the emission of an international export certificate or by means of a certificate obtained through false statements will be punished with a prison sentence of from one month to five years, if there is no higher penalty applicable to the fault by force of other legislation; attempted infringements will be punished.
- *Law 49/2009, 5 August 2009*: infringement may imply the banning of private companies from the further trade of military goods.

As regards dual-use goods and technologies, Portugal applies the norms of Council Regulation No. 428/2009 of 5 May 2009, setting up a community regime for the control of exports, transfer, brokering and transit of dual-use items, according to which all transfers of such items are subject to a preliminary licensing procedure. The external commerce of these goods, with the exception of military goods and technologies that are controlled by the Ministry of Defence, is the responsibility of the Ministry of Finance.[8]

Concerning Portuguese Customs, European Union Council Decision 2010/413/CFSP, has been disseminated, with a warning message, to all front line Customs offices, in order to call their special attention to this new legislation.

[8] See Decree Law No. 82/2007 approving the organic structure of the Directorate General of Customs and Excise Duties of the Ministry of Finance.

Regarding the freezing of funds, other financial assets and economic resources of persons and/or entities designated in the annex to resolution 1929 (2010), the resolution was sent to the Ministry of Finance and to the Bank of Portugal. According to the above-mentioned Law 11/2002, funds, financial assets and other economic resources must be frozen as soon as the European Union or the Security Council designates persons or entities. This includes any action that, directly or indirectly, might enable funds to be within reach of any individual or legal entity mentioned in those international legal instruments (articles 1 and 2 of Law 11/2002). Hence, the financial institutions should freeze funds and economic resources as soon as the competent authorities forward the United Nations lists to them (lists contained in European Union Regulations are directly applicable to all national institutions).